

Giving, Accepting, or Rejecting a Work Assignment: *A Guide for Nurses*

The Guide for Nurses has been endorsed by the following organizations:

Association of Operating Room Nurses, Baltimore Chapter

Baltimore City Health Department, Local 558

Chesapeake Society of Registered Ophthalmic Nurses

Health Facilities Association of Maryland

MHA: The Association of Maryland Hospitals & Health Systems

Maryland Area Association of Occupational Health Nurses

Maryland Board of Nursing

Maryland Licensed Practical Nurses Association Inc.

Maryland Nurses Association

Maryland Organization of Nurse Executives

Union Memorial Hospital School of Nursing Alumni Association

THIS GUIDE MUST BE READ IN CONJUNCTION WITH THE NURSE PRACTICE ACT (MD. CODE ANN. HEALTH OCC., TITLE 8), THE BOARD'S REGULATIONS (COMAR 10.27.01 ET. SEQ.), AND EMPLOYERS' POLICIES. THE GUIDE IS NOT INTENDED TO REPLACE OR MODIFY THE ACT OR THE REGULATIONS, OR EMPLOYERS' POLICIES; IN THE EVENT OF AMBIGUITY OR INCONSISTENCY, THE NURSE PRACTICE ACT AND THE BOARD'S REGULATIONS TAKE PRECEDENCE.

Giving, Accepting, or Rejecting a Work Assignment: *A Guide for Nurses*

The *Guide* reflects an effort to:

- Support the decision-making ability, responsibility, and accountability of the nurse in defining and determining his or her individual scope of practice.
- Improve understanding of the Nurse Practice Act (NPA) among staff nurses, nurse managers, nurse executives, educators, and employers of nurses as it relates to giving, accepting, or rejecting a work assignment or delegation.
- Provide a framework for the nurse to accept, negotiate, or reject a work assignment and to delegate nursing acts.

Purpose and Statement of Problem

The practice of nursing is dynamic. It evolves continually in response to the changing needs, demands, and resources of our society. Clarifying the responsibilities of the nurse (registered nurse and licensed practical nurse) may sometimes be challenging for nurses and for their employers. *Giving, Accepting, or Rejecting a Work Assignment: A Guide for Nurses* (the *Guide*) was developed in response to questions and concerns from nurses across Maryland to facilitate decision-making related to work assignments and delegation of nursing acts. The *Guide* was developed collaboratively by a coalition of nursing associations, employers of nurses, educators, and practicing nurses.

The *Guide* is based on the premise that each nurse is responsible and accountable for making decisions and practicing in accordance with the Nurse Practice Act (NPA), the nurse's educational background, competencies, and experience. Although the *Guide* is not legally binding, it is consistent with nursing practices and ethical standards set forth in the NPA. The *Guide* contains a brief review of Maryland regulations concerning nursing practice standards, ethical considerations, and the delegation of nursing acts. The *Guide* also recommends a process for evaluating the appropriateness of a work assignment and the delegation of a nursing task. Citations to specific sections of the NPA are given where appropriate. A glossary is provided to clarify the meaning of some frequently used terms. Readers are encouraged to refer to the glossary as needed to clarify the *Guide*.

Legal/Ethical Considerations

Nurse Practice Act (NPA)

The purpose of the NPA is to protect the public by assuring safe and competent nurses. Only licensed nurses have the legal, formal authority to practice nursing and to delegate nursing care. The NPA defines nursing practice and is the legal foundation for the practice of nursing in Maryland. There is a separate definition for registered nursing and practical nursing. These definitions are written in broad language which allows for changes in nursing practice. It is important that each nurse understand the definition of the practice of nursing since it forms the basis for nursing practice. Specifics related to the safe practice of nursing are determined by the Board of Nursing (the Board), and communicated through regulations and declaratory rulings.

When a license is issued, the nurse accepts the responsibility and accountability to be a safe, competent practitioner. The nurse must have a clear understanding of his/her own competencies and communicate them to coworkers and supervisors. This understanding allows a nurse to negotiate a work assignment drawing on the strengths of all involved in the care of the patient. In areas where they are not competent, nurses are responsible for obtaining additional education or training. Working beyond competencies or failure to maintain generally accepted standards of practice places the nurse at risk for disciplinary action by the Board.

The Board takes action against nurses who fail to perform in a manner that ensures safe nursing practice. Behavior and activities that could lead to disciplinary action by the Board include:

- Practicing beyond the scope permitted by the NPA.
- Accepting a work assignment that the nurse is not competent to perform and/or failing to perform it competently.

- Failing to exercise supervision over persons to whom the nurse has delegated nursing functions.
- Abandoning or neglecting a patient.
- Failing to report violations of the NPA to the Board.

Following an investigation of a complaint against a nurse's practice, the Board is empowered to take any of the following actions:

- Revocation—The license to practice nursing is removed.
- Suspension—The license to practice nursing is removed for a specific period of time.
- Probation—The nurse is required to meet certain conditions for a specific period of time. The type of setting, shifts, or hours worked also may be restricted.
- Reprimand—The nurse is censured in a public manner.
- Fine—A fine of up to \$5,000 is levied for the violation.
- Dismissed—The Board takes no disciplinary action.

The authority of the NPA is specific to the practice of the individual nurse. The NPA does not extend to employment practices, staffing patterns, or employer/employee issues.

Regulations—Code of Maryland Administrative Regulations (COMAR)

Regulations explain the law and provide a process to operationalize it. Regulations hold the force of law. Nurses must be familiar with all of the regulations developed by the Board. There are several that are specific to nursing practice and provide guidance when giving, accepting, or rejecting a work assignment.

- Ethics—The regulations describe the nurse's ethical responsibilities in the practice of nursing

(COMAR 10.27.19). In compliance with the ethics regulations each nurse:

“Assumes responsibility and accountability for individual nursing judgments and actions.”

“Exercises informed judgment and uses individual competence and qualifications as criteria in seeking consultation, accepting responsibilities, and delegating nursing activities to others.”

Similar language is found in the American Nurses Association Code of Ethics.

- Standards of Practice—The Standards of Practice describe nursing competence as understanding policies and procedures of the employing institution, assuring that delegation of a nursing act to an unlicensed person can be done safely, remaining knowledgeable about current nursing procedures, and obtaining the necessary training before accepting a nursing responsibility that one does not have the knowledge to implement (COMAR 10.27.09 and COMAR 10.27.10).
- Delegation of Nursing Functions—The Maryland Board of Nursing regulation governing Delegation of Nursing Functions (COMAR 10.27.11.03A) gives nurses the authority to delegate nursing tasks to unlicensed individuals. However, the regulations specify that the nurse will determine the tasks to be delegated and the degree of supervision required after an evaluation of appropriate factors (COMAR 10.27.11.04). The nurse retains responsibility, accountability, and liability for delegation of nursing practice activities.

Declaratory Rulings

The Board issues declaratory rulings to define or clarify the scope of nursing practice. The Board acts on an individual’s request and the ruling is specific to the circumstances as described in the request. Rulings are based on extensive study of the situation by the Board. Following review of the information that has been gathered, the Board can decide that a request is within the scope of practice of the nurse, not within the scope of practice, or within the designated nurse’s scope if certain conditions are met. Any rulings that set conditions may require specialized training and education, site requirements, and/or supervision requirements. The declaratory ruling may indicate whether a procedure or activity is within the scope of nursing practice. Nurses should be knowledgeable about these rulings because they may be helpful in making a decision about accepting or rejecting a request to perform a nursing act or responsibility.

Responsibilities

Individual nurses, nurse supervisors, chief nurse executives, and employers all have responsibilities that contribute to safe, effective patient care. Key responsibilities of individuals and organizations involved in the provision of nursing care are summarized below.

The individual nurse:

- ★ Determines and maintains nursing competence consistent with the NPA.
- ★ Provides competent nursing care to patients.
- ★ Exercises informed judgment and uses individual competence and qualifications as criteria in accepting responsibilities, seeking consultation, and delegating nursing activities to others.
- ★ Clarifies assignments and assesses personal knowledge, skills, and abilities prior to accepting a work assignment.
- ★ Seeks assistance and/or additional training if gaps in knowledge, skills, or abilities are identified. If necessary, negotiates options for all or part of the work assignment when appropriate training and supervision are not available to meet immediate patient care needs.
- ★ Communicates the need for alternate means of care when patient needs exceed the individual nurse's knowledge, skills, or abilities, or other available resources.
- ★ Delegates only those tasks that are within the nurse's scope of practice, area of responsibility, and competency. Assesses the needs of patients and the ability of unlicensed personnel prior to delegating nursing acts.
- ★ Refuses to perform acts of nursing beyond the parameters of the NPA, and/or the nurse's education, capabilities, and experience.

- ★ Has the right to refuse to accept responsibility and accountability for supervising, instructing, or evaluating an unlicensed individual performing a nursing task that has been delegated by another nurse or individual.

The nurse supervisor:

- ★ Evaluates the knowledge, skills, and abilities of nursing staff to provide care.
- ★ Identifies nursing care requirements and organizes resources to ensure that patients receive appropriate care.
- ★ Collaborates with the nurse to clarify work assignments. Also collaborates with the nurse to assess knowledge, skills and abilities, and options for performing a work assignment or components of it when the nurse does not feel personally competent to perform the work assignment.
- ★ Provides education to staff and supports the decision-making process regarding patient care assignments and reassignments, including patient placement and allocation of resources.

The employer/chief nurse executive:

- ★ In collaboration with nursing personnel, establishes a system for provision of care which includes defining a model of nursing practice that:
 - Assures competent nursing care is provided to patients.
 - Identifies individuals to whom nursing tasks may be delegated.
 - Provides for periodic reevaluation of the competency of individuals to whom nursing tasks are delegated.
 - Determines the competency of nurses to delegate or accept a work assignment.

- Recognizes that the final decision regarding delegation of specific tasks or accepting a work assignment is within the scope of the individual nurse's professional judgment.
- ★ Institutes screening procedures, hiring practices, and education and training, which assure nurses and unlicensed assistive personnel are able to provide safe care.
- ★ Conducts ongoing monitoring and evaluation of the quality of patient care.
- ★ Defines roles and responsibilities of all categories of caregivers.
- ★ Provides a formal process for timely review and resolution of conflicts related to work assignments.
- ★ Assures that resources are adequate to meet patient care needs.
- ★ Initiates disciplinary action for violation of policies and procedures of the facility.

Application of the *Guide* for Decision-Making

At some time, every nurse will be faced with making a decision about accepting a work assignment. Similarly, the nurse may be faced with decisions about delegation of nursing functions to unlicensed assistive personnel. Issues central to the decisions are:

- The right of the patient to receive safe nursing care at an acceptable level of quality.
- The responsibility for appropriate utilization and distribution of nursing care resources while meeting socio-economic and political challenges associated with shrinking health care dollars.

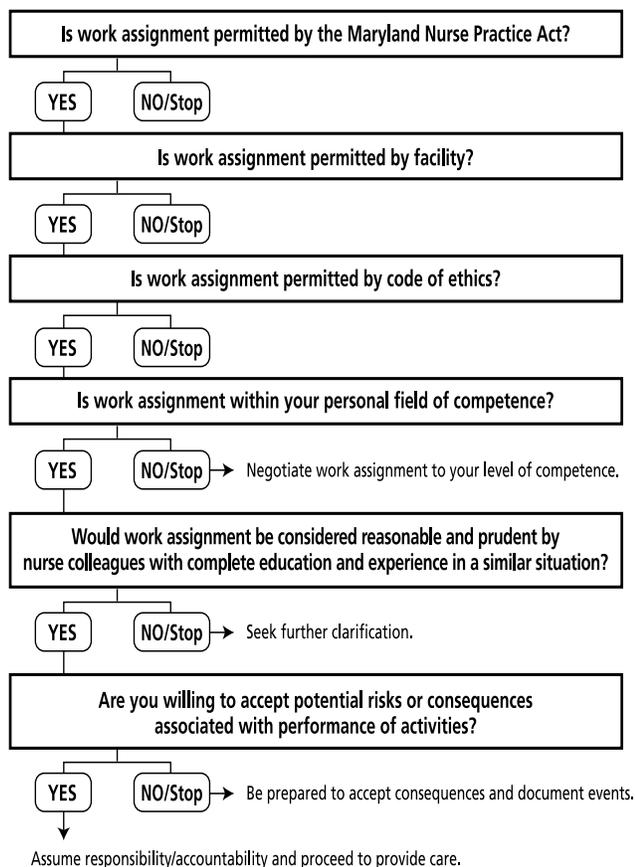
Work Assignments for Licensed Nurses

The process of decision-making utilized by the nurse when receiving a work assignment should follow a logical progression (see Figure 1).

- **Step 1: State the assignment clearly and clarify what the nurse is being asked to do.** Many issues of conflict can be avoided with clear, concise communication of expectations.
- **Step 2: Determine the nurse's knowledge, skill, and experience relevant to the work assignment.** Is there a discrepancy between the nurse's knowledge, skill, or experience to perform the requested act and the knowledge, skill, or experience required?
- **Step 3: Accept or reject the assignment.** Identify options and the consequences of each option. If the nurse believes that his/her knowledge, skills, and experience are adequate to perform the work assignment, the nurse accepts all responsibility for performing the act. If the nurse believes there is a discrepancy between his/her ability and the required knowledge, skills, and experience, further communication and consultation are needed prior to accepting the work assignment. If additional knowledge and skills are required, the nurse should consider whether this can be remedied by on-the-job training, supervised practice, consultation, or other immediate actions. If learning needs are such that these measures will not be sufficient to enable the nurse to provide the care, he/she must collaborate with others to secure appropriate resources to meet patient needs. This may mean developing an alternative assignment for the nurse. A plan for obtaining the experience needed also should be established.

Figure 1

Decision Tree for RN/LPN Work Assignment

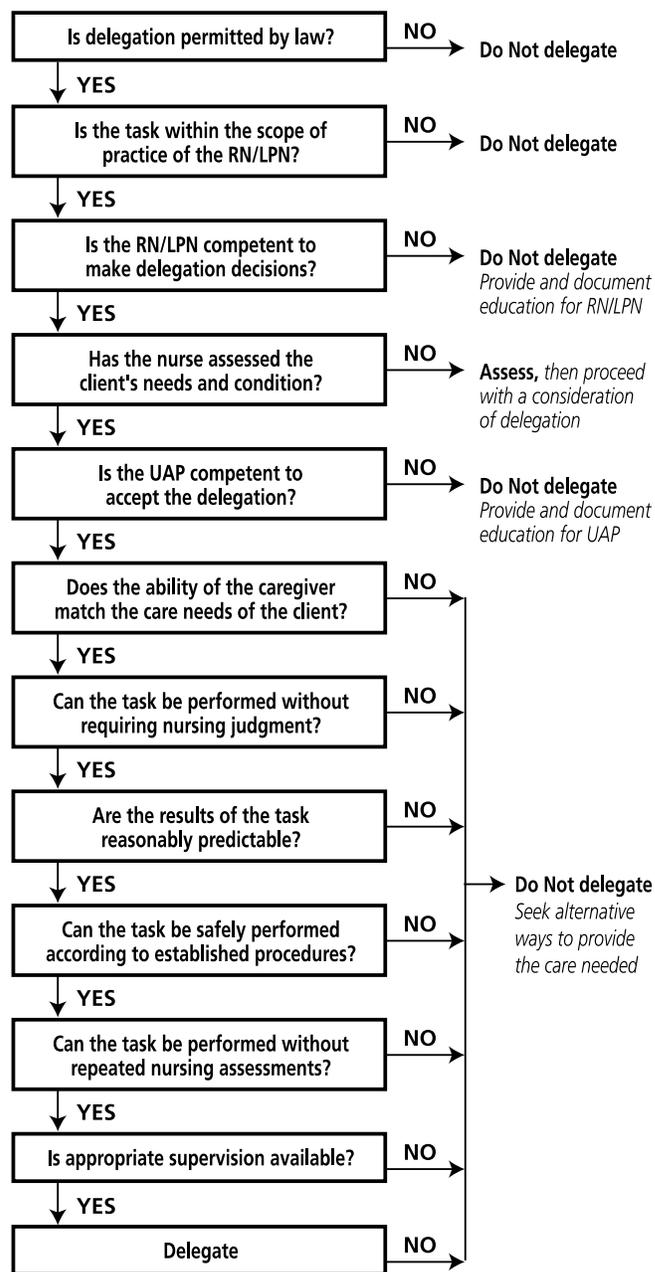


Delegation to Unlicensed Personnel

Delegation of nursing acts to unlicensed assistive personnel (UAP) follows a pattern similar to that of evaluating the appropriateness of a work assignment (see Figure 2).

- Step 1: State clearly the tasks to be delegated.**
 What aspects of care will be delegated?
 What specific tasks are to be done?
 What is the condition of the patient?
- Step 2: Assess the competency of the unlicensed individual and the condition of the patient.**
 Does the unlicensed person have the knowledge, skills, and experience needed to do the work safely and effectively given the patient's condition and the amount and kind of supervision the nurse can provide? Is the condition of the patient stable? Can the task be performed without requiring nursing judgment?
- Step 3: Confirm or reject delegation.** If delegation is confirmed, follow through with the assignment and supervision. If delegation is rejected, the nurse has the responsibility to personally perform the care or secure alternate ways to provide the care. In addition, if the delegation is rejected because the unlicensed person lacks the required skills, the nurse should document perceived discrepancies and actions taken to resolve them. If delegation is frequently rejected based on the skills and experience of unlicensed personnel, the nurse has the responsibility to consult with the supervisor regarding the nature of the problem and seek solutions. Possible solutions might include the following: on-the-job training, supervised practice, assignment to alternate caregivers (other licensed or unlicensed personnel), clarification of the role of unlicensed persons, skills training, and additional training in evaluation and supervision for nurses who delegate.

Figure 2
Decision Tree for Delegation



Adapted from the Delegation Decision Trees developed by the Ohio Board of Nursing and the National Council of State Boards of Nursing, Inc. 1997

Summary

In most cases, nurses receive appropriate work assignments and/or are able to delegate selected acts to unlicensed assistive personnel. When this is not the case, they are usually able to resolve problems through consultation, training, or alternative assignments, which optimize the use of available resources and assure safe, effective care. Consultation may be via telephone or in person. It may also include the Board of Nursing. Ideally, consultation should be with another nurse who is more knowledgeable about the work assignment or the decision to delegate; about the contents of the NPA; and, about the legal, ethical, and moral consequences for the nurse's decision to accept or refuse the work assignment or delegation.

In rare cases, a nurse may conclude that it is necessary to refuse to accept a work assignment or to refuse to delegate a nursing act. In such cases, it is important for the nurse to be aware of the consequences of his/her decision to accept or refuse the work assignment or delegate. If the nurse accepts the work assignment or delegation, and believes he/she may not have the knowledge, skills, or experience to perform the act or believes it is unwise to delegate a nursing task, but is doing so because of the disciplinary consequences of refusal, the nurse is responsible for two additional steps.

- *Step 1:* The nurse needs to **verbally and, in writing, inform the agency's manager/supervisor of the perceived discrepancies between the required competence and his/her own knowledge, skills, and abilities or those of the unlicensed person.** The nurse should keep a personal copy of this documentation and the steps taken to gain clarification and remedy the situation. Documentation provides a record of the situation for future reference. Documentation done at the time of the incident is more accurate and complete than documentation done at a later date.
- *Step 2:* The nurse needs to **be prepared for disciplinary actions** which may follow as a result of the decision to refuse. These may include sanctions by the employer or the Board of Nursing. The nurse should be aware of options to contest the disciplinary action. These are usually found in employer policies or grievance procedures. The Board of Nursing has similar policies. These can be found in the NPA.

Examples of Decision-Making Situations

Scenario—Assignment to a Different Practice Area

Staffing is short in the emergency room (ER). The nursing supervisor asks you to move from the critical care unit to the ER to assist with patient care. In a similar situation, a nurse is asked to move from the long-term care unit to the subacute unit. As the nurse, you feel unqualified to work in the unit with an unfamiliar patient population. What do you do?

1. State the assignment clearly and clarify what you are being asked to do.

- ✓ How many patients will you be expected to care for?
- ✓ Does the care of these patients require you to have any specialized knowledge and skills to provide safe care?
- ✓ What kind of orientation will you be given?
- ✓ Will there be qualified and experienced RNs on the unit?
- ✓ What procedures will you be expected to perform?
- ✓ Are there written policies or procedures that describe how and under what conditions you will perform the work assignment?
- ✓ Is the activity permitted by the NPA?
- ✓ Is the assignment permitted by your facility?
- ✓ Is the assignment consistent with ethical standards?

2. Determine your knowledge, skills, and experience relevant to the work assignment.

- ✓ Do you have the skills to meet the expectations as described?

- ✓ Have you had experience on this type of unit or with this type of patient population in the past? What skills and experience do you have that can be applied to this population?
- ✓ Would another nurse colleague with the same skills and abilities as you accept a similar assignment?
- ✓ Would perceived discrepancies in your abilities and the expectations of the assignment lead to an unsafe patient situation?
- ✓ Can the skills you need be learned with some training?

3. Identify options.

- ✓ Accept the assignment if you believe you can provide safe patient care within the parameters expected. When you accept the assignment, you also accept the legal and ethical responsibility for the safe care of these patients.
- ✓ Discuss the discrepancies in your abilities and the expectations of the work assignment with your supervisor. Also discuss what portions of the work assignment you feel competent to provide. For example, you may be competent to provide routine care but not manage the more complex technology specific to the unit. If this doesn't meet patient needs, negotiate how care could be provided, for example, with another nurse handling the complex technology and you providing the rest of the care. How could care be managed in a team relationship? Is there another nurse who is more qualified to accept the work assignment?
- ✓ You may need to consult with the next level of management to discuss the various perspectives of the issue.

4. Point of decision/implications—If no identified options are acceptable, you have reached a decision point.

- ✓ Accept the assignment, documenting your concerns and the process that you used to communicate them to the facility. Keep a copy and provide a copy to your supervisor and the chief nurse executive. Once you have accepted the assignment, you are legally responsible for the patients and withdrawal from the work assignment could constitute abandonment. It is unwise to discuss the situation or your feelings with other staff or patients.
- ✓ If, after discussion you still feel unqualified to accept the assignment, you may refuse it. It is important that you first work with the facility to explore all possible options to complete the work assignment safely. Even though you may reject the assignment because of a legitimate concern for patient safety and legal accountability, the facility has legal authority to take disciplinary action which could lead to termination. Keep a copy of your documentation and send a copy to the supervisor and chief nurse executive.

Scenario—Delegation

You have been asked to delegate teaching of breast feeding to an unlicensed person.

1. State the assignment clearly.

- ✓ What specifically are you being asked to delegate? Initial teaching, reinforcement of previous teaching, distribution of material, other?
- ✓ Are there laws that allow the delegation? The law does not permit the delegation of teaching to unlicensed persons and therefore you do not delegate it. The nurse must retain the responsibility for the teaching of breast feeding. At this point the nurse should look for options. They might include enlisting another nurse to do the teaching or arranging for the mother to attend a class. The unlicensed person may assist by distributing literature, checking

with the mother to see if any problems are occurring, and reporting those problems to the nurse. Once the assignment is clarified, the nurse should:

2. Assess competency of the unlicensed person.

- ✓ What knowledge, skills, and experience will the unlicensed person need to perform the task?
- ✓ Does the unlicensed person know what questions to ask and what to report back to the nurse for follow-up?
- ✓ If the individual does not have the necessary skills, is there another unlicensed person with the necessary training and experience?

3. Assess the patient.

- ✓ What is the condition of the patient and her ability to learn breast feeding? Does the patient have enough knowledge and skill in breast feeding that support from the unlicensed person will be of assistance to the her?
- ✓ Is the nurse able to provide the amount of supervision required for the situation?
- ✓ Can the task be performed without requiring nursing judgment?
- ✓ Are the results reasonably predictable?
- ✓ Can the task be performed according to exact, unchanging directions?

4. Confirm or reject delegation.

- ✓ If delegation is confirmed, follow through with the assignment. The nurse remains responsible for supervision. The nurse retains the legal accountability for the delegation.
- ✓ If the delegation is rejected, the nurse can perform the task. The nurse also should examine why the delegation is being rejected. If it is related to the competency of the unlicensed person, the nurse should consult with the supervisor about options for training.
- ✓ Document the steps taken in your decision to reject the delegation and provide a copy to your supervisor and chief nurse executive.

Glossary & References

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GLOSSARY

- Abandonment*—A nurse terminating the nurse-patient relationship without reasonable notification to the nursing supervisor for continuation of the patient's care.
- Accountability*—Being responsible and answerable for one's professional judgment and actions.
- Authority*—Being in a position to make decisions and to direct others to act in a manner determined by those decisions.
- Competency*—Appropriate application of knowledge, skills, and abilities expected in the performance of a nurse's practice.
- Delegation*—The act of assigning or authorizing an unlicensed individual to perform acts of registered nursing or licensed practical nursing.
- Liability*—An obligation one has incurred or might incur through any act or failure to act. Responsibility for conduct falling below a certain standard.
- Negligence*—Failing to perform as a reasonable prudent nurse would have performed in the same or similar situation.
- Supervision*—Provision of guidance, direction, evaluation, and follow-up by the licensed nurse for the accomplishment of the assignment or the delegated task.
- Responsibility*—Duty, obligation, commitment.
- Work Assignment*—The designation of responsibility for nursing care or selected nursing functions that are within the scope of the nurse's license.